

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LINA YOCASTA SANTANA,

Plaintiff,

– against –

KILOLO KIJAKAZI, ACTING COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

OPINION AND ORDER

21 Civ. 1041 (ER)

Ramos, D.J.:

Plaintiff Lina Yocasta Santana brings this action pursuant to 42 U.S.C. § 205(g), challenging the decision of the Commissioner of Social Security (the “Commissioner”) denying her application for Supplemental Security Income. Doc. 1. On February 9, 2021, the Court referred the case to Magistrate Judge Sarah L. Cave. Doc. 6. Before the Court are the parties’ cross-motions for judgment on the pleadings, pursuant to Federal Rule of Civil Procedure 12(c). Docs. 17, 19.

On July 29, 2022, Magistrate Judge Cave issued a Report and Recommendation (the “R&R”), recommending that Santana’s motion be granted and the Commissioner’s motion be denied. Doc. 25. The R&R also notified the parties that they had fourteen days from date of service to file written objections. *Id.* No objection to the R&R has been filed.

I. LEGAL STANDARD

A district court reviewing a magistrate judge’s report and recommendation “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). Parties may raise “specific,” “written” objections to the

report and recommendation “[w]ithin fourteen days after being served with a copy.” *Id.*; *see also* Fed. R. Civ. P. 72(b)(2). A district court reviews *de novo* those portions of the report and recommendation to which timely and specific objections are made. 28 U.S.C. § 636(b)(1)(C); *see also United States v. Male Juvenile (95-CR-1074)*, 121 F.3d 34, 38 (2d Cir. 1997). The district court may adopt those parts of the report and recommendation to which no party has timely objected, provided no clear error is apparent from the face of the record. *Lewis v. Zon*, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008).

The district court will also review the report and recommendation for clear error where a party's objections are “merely perfunctory responses” argued in an attempt to “engage the district court in a rehashing of the same arguments set forth in the original petition.” *Ortiz v. Barkley*, 558 F. Supp. 2d 444, 451 (S.D.N.Y. 2008) (citations and internal quotation marks omitted).

II. DISCUSSION

Despite the Commissioner's failure to object to the R&R, the Court has reviewed Magistrate Judge Cave's thorough and well-reasoned R&R and finds no error, clear or otherwise. The Court therefore adopts Magistrate Judge Cave's recommendation to grant Santana's motion, deny the Commissioner's motion, and remand the case.

For the foregoing reasons, Santana's motion for judgment on the pleadings is GRANTED and the Commissioner's cross motion is DENIED. The Clerk of the Court is respectfully directed to terminate the motions, Docs. 17, 19, and remand the case for further proceedings.

It is SO ORDERED.

Dated: January 23, 2023
New York, New York



Edgardo Ramos, U.S.D.J